IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6181 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIJAYKUMAR MOHANBHAI GANDHI

Versus

STATE OF GUJARAT

Appearance:

MR JITENDRA M PATEL for Petitioner Nos. 1-4

Mr.M.K. Dagli, Assistant GOVERNMENT PLEADER, for Respondent No. 1-2

MR KK TRIVEDI for Respondent No. 3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 17/10/2002

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is taken up for final hearing today.

The petitioners herein have filed Revision Application before the Secretary (Appeals), Revenue Department, Gujarat State, being Revision Application No.HKP/30/2001. By filing the said revision application, the petitioner has challenged the order passed in RTS Appeal No.79 of 2000. By the said order, the Collector, Surat, has allowed the appeal filed by respondent No.3 herein. The said order of the Collector is challenged by the present petitioner before the Secretary (Appeals) and it is an admitted fact that the revision is pending. The Secretary, by order dated 17.4.2001, which is at page 122 in the compilation, has passed an order of status quo as regards entry No.1197 is concerned. In the meanwhile, ALT, Choryasi initiated proceedings under Section 84C of the Act against the present petitioner on the basis of the observations of the Collector in his order. It is contended by Mr.Patel that when the revision application of the petitioner is already pending before the State Government, the ALT, Choryasi ought not to have proceeded under Section 84C, especially when by his order dated 17.4.2001, the Secretary has already passed an order directing maintenance of status quo as regards entry No.1197 is concerned.

In response to the order of this Court dated 1st October, 2002, ALT, Choryasi, is present in the Court. He submitted that the second order dated 17th April, 2001 was not served upon him and, therefore, on the basis of the earlier interim order of the Secretary, he has initiated proceedings under Section 84C of the Act. He, however, submitted that since the revision is pending before the Secretary, till the revision is finally disposed of, no further proceedings will be initiated for executing the order passed under Section 84C of the Act. He also further submitted that the present status quo will be maintained till the revision is disposed of by the Secretary on merits. The learned AGP, on the basis of the statement of the ALT, Choryasi, has submitted that till the revision application is decided by the Secretary, no further steps will be taken and the existing status quo will be maintained and further proceedings will be taken only as per the observation of the Secretary in the final order. Mr.Trivedi, learned Advocate, who is appearing for the private parties, submitted that he has no objection if the existing status quo is maintained till the Secretary decides the revision application, which is pending at the instance of the present petitioners.

In view of the aforesaid aspect of the matter, it is directed that the existing status quo may be

maintained by all the concerned parties till revision application No.HKP/30/2001 is disposed of by the Secretary, and further proceedings will be initiated only after the said revision is disposed of. The Secretary, before whom the aforesaid revision is pending, may expedite the hearing of the said revision application and the said revision may be disposed of latest by 30th April, 2003. It is clarified that this Court has not expressed any opinion on the merits of the issue in connection with the revision application, which is pending before the Secretary and it is for the Secretary to decide the revision in accordance with law.

In view of what is stated above, the petition is partly allowed to the said extent. Rule is partly made absolute, with no order as to costs.

17th October, 2002 (P.B. Majmudar, J.)

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(apj)